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-and-

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Counsel to Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

WALTER BEINECKE, III, EAGLIS
ALTERNATIVE INVESTMENTS I, LLC,
GEOFFREY T. FREEMAN, GRAHAM
GUND, HENRY A. JORDAN, JENNIFER C.
McNEIL, J. STUART MOORE, and CARL
NOVOTNY, TRUSTEE of the S&H
NOMINEE TRUST,

Plaintiffs,

-against-

S&H MARKETING, INC. f/k/a S&H
GREENPOINTS, INC., and THE SPERRY
AND HUTCHINSON COMPANY, INC.,

Defendants.

08- Civ. 2483 (GBD)

ELECTRONICALLY FILED

**DECLARATION OF ANDREW
T. SOLOMON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ABSTENTION AND REMAND**

I, Andrew T. Solomon, Esq., hereby declare and state as follows:

1. I am a partner with the law firm of Sullivan & Worcester LLP, attorneys for
Plaintiffs Walter Beinecke, III, Eaglis Alternative Investments I, LLC, Geoffrey T. Freeman,

Graham Gund, Henry A. Jordan, Jennifer C. McNeil, J. Stuart Moore, and Carl Novotny, Trustee of the S&H Nominee Trust. I submit this Declaration in support of Plaintiffs' Motion for Abstention and Remand. All of the facts set forth herein are known to me personally or upon information and belief.

2. Attached hereto as Exhibit A is a true and accurate copy of the Affidavit of Service of the Complaint upon Perry Ashley, General Counsel of Defendant The Sperry and Hutchinson Company, Inc. ("Sperry"), dated February 20, 2008, and served at Sperry's offices located at 211 South Ridge Street, Rye Brook, New York 10573.

3. Attached hereto as Exhibit B is a true and accurate copy of the Order Directing Joint Administration of Debtors' Cases and Estates Pursuant to Bankruptcy Rule 1015(b), dated December 17, 2007.

4. Attached hereto as Exhibit C is a true and accurate copy of an excerpt of the Transcript of January 17, 2008 Hearing before Judge Thomas Donovan, Case No. 2:07-bk-20027-TD at 98-99, 104-105.

4. Attached hereto as Exhibit D is a true and accurate copy of Plaintiffs' Statement Pursuant to Federal Bankruptcy Rule 9027(e)(3), dated March 21, 2008.

5. Attached hereto as Exhibit E is a true and accurate copy of the Declaration of Kenneth L. Guernsey in Support of Debtors' Application for Order Authorizing Retention of Cooley Godward Kronish LLP, as Special Counsel for the Debtors and Debtors in Possession, dated January 7, 2008.

6. Attached hereto as Exhibit F is a true and accurate copy of the Order Authorizing Retention of Cooley Godward Kronish LLP, as Special Counsel for the Debtors and Debtors-in-Possession, dated January 31, 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: March 28, 2008

Respectfully Submitted,

By: /s/ Andrew T. Solomon
Andrew T. Solomon, Esq.

EXHIBIT A

AFFIDAVIT OF SERVICE

State of New York

County of New York

Supreme Court

Index Number: 600503-08

Date Filed: 2/19/2008

Plaintiff:

Walter Beinecke, III, Eaglis Alternative Investments I, LLC, Geoffrey
T. Freeman, Graham Gund, Henry A Jordan, Jennifer c. McNeil, J.
Stuart Moore, and Carl Novotny, Trustee of the S&H Nominee Trust

vs.

Defendant:

S&H Marketing, Inc. f/k/a S&H Greenpoints, Inc. and The sperry and
Hutchinson Company, Inc.

Received these papers to be served on **The Sperry And Hutchinson Co. Inc. Perry Ashley (sec'y & Gen Counsel), 211 South Ridge Street, Rye Brook, NY 10573.**

I, Gina Perriello, being duly sworn, depose and say that on the **20th day of February, 2008 at 4:20 pm, I:**

served a **CORPORATION** by delivering a true copy of the **Summons and Complaint with Exhibits** upon **Perry Ashley as Secretary & General Counsel for The Sperry And Hutchinson Co. Inc.,** at the address of **211 South Ridge Street, Rye Brook, NY 10573**, said individual stated that she/he was authorized to accept legal process.

Said documents were conformed with index number and date of filing endorsed thereon.

Description of Person Served: Age: 55, Sex: M, Race/Skin Color: White, Height: 5'7", Weight: 165, Hair: Black/Balding, Glasses: N

State of New York, County of Westchester, ss: I certify that the above information is accurate and true. I am not a party to the action, am over the age of 18 and reside in the State of New York.

Sworn to before me on the 21st day of February, 2008

NOTARY PUBLIC

ELLEN EAKLEY

Notary Public, State of New York

No. 01EA5085889

Qualified in Westchester County

Commission Expires Sept. 29, 2009

Gina Perriello

Our Job Serial Number: 2008001636

Service Fee: _____

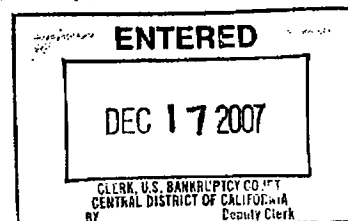
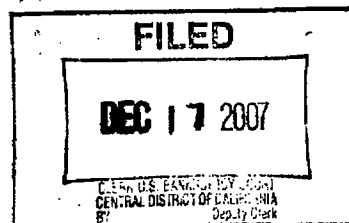
EXHIBIT B

ORIGINAL

HENNIGAN, BENNETT & DORMAN LLP
LOS ANGELES, CALIFORNIA

HENNIGAN, BENNETT & DORMAN LLP
BRUCE BENNETT (Cal. Bar No. 105430)
JAMES O. JOHNSTON (Cal. Bar No. 167330)
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*Proposed Reorganization Counsel for
Debtors and Debtors in Possession*



UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

SOLIDUS NETWORKS, INC., d/b/a
PAY BY TOUCH, a/f/k/a PAY BY
TOUCH SOLUTIONS, a Delaware
Corporation, et al.

Debtor.

Case No. 2:07-20027-TD

CHAPTER 11

**[PROPOSED] ORDER DIRECTING JOINT
ADMINISTRATION OF DEBTORS' CASES AND
ESTATES PURSUANT TO BANKRUPTCY
RULE 1015(b)**

In re

PAY BY TOUCH PAYMENT
SOLUTIONS, L.L.C., a/f/k/a IPS
SOLUTIONS, L.L.C., a/f/k/a IPAY,
a/f/k/a EPX, a/f/k/a PAYMENT
ACQUISITION CORPORATION,
a/f/k/a INTERCEPT PAYMENT
SOLUTIONS, L.L.C., a/f/k/a SPS
PAYMENTS, INC., a/f/k/a PAY BY
TOUCH SOLUTIONS MERCHANT
SERVICES, a Delaware Corporation,

Debtor.

Case No. 1:07-21779-TD

CHAPTER 11

In re

PAY BY TOUCH PROCESSING, INC.
a/f/k/a CSSI ACQUISITION, a
Delaware Corporation,

Debtor.

Case No. 1:07-21778-TD

CHAPTER 11

1 *In re*

2 PAY BY TOUCH CHECK CASHING,
3 INC., a Delaware Corporation,

4 *Debtor.*

Case No. 1:07-21775-TD

CHAPTER 11

5 *In re*

6 CHECK ELECT, INC., a Wisconsin
7 Corporation,

8 *Debtor.*

Case No. 1:07-21768-TD

CHAPTER 11

9 *In re*

10 SEVEN ACQUISITION SUB, L.L.C.,
11 a/f/k/a SEVEN STREET SOFTWARE,
12 a Delaware Corporation,

13 *Debtor.*

Case No. 1:07-21777-TD

CHAPTER 11

14 *In re*

15 PAY BY TOUCH CHECKING
16 RESOURCES, INC., a Delaware
17 Corporation,

18 *Debtor.*

Case No. 1:07-21773-TD

CHAPTER 11

19 *In re*

20 INDIVOS CORPORATION, a/f/k/a
21 SMART TOUCH, INC., a/f/k/a
22 VERISTAR CORPORATION, a/f/k/a
23 INDIVOS ACQUISITION
24 CORPORATION, a Delaware
25 Corporation,

26 *Debtor.*

Case No. 1:07-21772-TD

CHAPTER 11

27 *In re*

28 CARDSYSTEMS PAYMENT
SOLUTIONS, L.L.C., a Delaware
Corporation,

Debtor.

Case No. 1:07-21780-TD

CHAPTER 11

In re

MAVERICK INTERNATIONAL
SERVICES, INC., an Arizona
Corporation,

Debtor.

Case No. 1:07-21782-TD

CHAPTER 11

In re

ATMD ACQUISITION
CORPORATION, a/f/k/a ATMD
DIRECT, a/f/k/a ATM ONLINE, INC.,
a Delaware Corporation,

Debtor.

Case No. 1:07-21783-TD

CHAPTER 11

This matter coming before the Court on the “*Ex Parte* Motion For Order Directing Joint Administration Of Debtors’ Cases And Estates Pursuant To Bankruptcy Rule 1015(b)” (the “Motion”) filed by Solidus Networks, Inc., d/b/a Pay By Touch, a/k/a Pay By Touch Solutions, a/f/k/a BioPay, Pay By Touch Payment Solutions, LLC, a/f/k/a EPX, a/f/k/a Payment Acquisition Corporation, a/f/k/a InterCept Payment Solutions, LLC, a/f/k/a SPS Payments, LLC, a/f/k/a IPS Solutions, LLC, a/f/k/a iPay, a/f/k/a Pay By Touch Solidus Merchant Services, Pay By Touch Processing, Inc., a/f/k/a CSSI Acquisition Corporation, a/f/k/a CardSystems Solutions, Inc., Pay By Touch Check Cashing, Inc., Check Elect, Inc., Seven Acquisition Sub, LLC, a/f/k/a Seven Street Software, Pay by Touch Checking Resources, Inc., Indivos Corporation, a/f/k/a Smart Touch, Inc., a/f./k/a Veristar Corporation, a/f/k/a Indivos Acquisition Corporation, Card Systems Payment Solutions, LLC, Maverick International Services, Inc., and ATMD Acquisition Corporation, a/f/k/a ATMD Direct, a/f/k/a/ ATM Online, Inc., the debtors and debtors in possession herein (collectively, the “Debtors”); the Court having reviewed the Motion, the record in these cases and the Lumsden Declaration (as that term is defined in the Motion), the Court hereby finds that (a) joint administration of the Debtors’ cases and estates pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), as requested by the Debtors in the Motion, is in the best interests of the Debtors and the Debtors’ estates and, among other things, will promote the interests and convenience of all parties and reduce the costs and expedite the administration of the

1 Debtors' chapter 11 cases; (b) good cause appears for the relief requested in the Motion; and
2 (c) notice of the Motion was reasonable and appropriate under the circumstances.

3 **NOW, THEREFORE, IT HEREBY IS ORDERED THAT:**

4 1. The Motion is GRANTED.

5 2. The above-captioned chapter 11 cases and bankruptcy estates hereafter shall be
6 jointly administered pursuant to Bankruptcy Rule 1015(b).

7 3. The Clerk of Court shall maintain a single docket for the Debtors' jointly-
8 administered chapter 11 cases under the case number assigned to Debtor Solidus Networks, Inc.,
9 d/b/a Pay By Touch, a/f/k/a Pay By Touch Solutions with a docket entry reflecting this Order to be
10 entered on the docket for each of the above-captioned cases.

11 4. The caption for any pleading or paper filed with the Court with respect to any of the
12 above-captioned cases shall conform substantially to the form of caption attached hereto as
13 Exhibit 1.

14 5. Nothing in this Order shall be deemed to be a substantive consolidation of the
15 Debtors' cases and estates, and all parties in interest reserve their rights to request or oppose such
16 substantive consolidation.

17
18 DATED: December 17, 2007

19
20
21 
22 HONORABLE THOMAS B. DONOVAN
23 UNITED STATES BANKRUPTCY JUDGE
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25
26
27
28

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re) Case No. 07-20027-TD
SOLIDUS NETWORKS, INC., d/b/a)
PAY BY TOUCH, a/f/k/a PAY BY) CHAPTER 11
TOUCH SOLUTIONS, a Delaware) (Jointly Administered)
Corporation, et al.,)
*Debtors.*¹)

¹ The Debtors include the following entities: Solidus Networks, Inc., d/b/a Pay By Touch, a/k/a Pay By Touch Solutions, a/f/k/a BioPay, Pay By Touch Payment Solutions, LLC, a/f/k/a EPX, a/f/k/a Payment Acquisition Corporation, a/f/k/a InterCept Payment Solutions, LLC, a/f/k/a SPS Payments, LLC, a/f/k/a IPS Solutions, LLC, a/f/k/a iPay, a/f/k/a Pay By Touch Solidus Merchant Services, Pay By Touch Processing, Inc., a/f/k/a CSSI Acquisition Corporation, a/f/k/a Card Systems Solutions, Inc., Pay By Touch Check Cashing, Inc., Check Elect, Inc., Seven Acquisition Sub, LLC, a/f/k/a Seven Street Software, Pay by Touch Checking Resources, Inc., Indivos Corporation, a/f/k/a Smart Touch, Inc., a/f/k/a Veristar Corporation, a/f/k/a Indivos Acquisition Corporation, CardSystems Payment Solutions, LLC, Maverick International Services, Inc., and ATMD Acquisition Corporation, a/f/k/a ATMD Direct, a/f/k/a ATM Online, Inc.

NOTE TO USERS OF THIS FORM:

*Physically attach this form as the last page of the proposed Order or Judgment.
Do not file this form as a separate document.*

In re	SOLIDUS NETWORKS, INC., d/b/a PAY BY TOUCH, a/f/k/a PAY BY TOUCH SOLUTIONS, et al.	CHAPTER 11
	Debtors.	CASE NUMBER 1:07-20027

**NOTICE OF ENTRY OF JUDGMENT OR ORDER
AND CERTIFICATE OF MAILING**

TO ALL PARTIES IN INTEREST ON THE ATTACHED SERVICE LIST:

1. You are hereby notified, pursuant to Local Bankruptcy Rule 9021-1(1)(E), that a judgment or order entitled *(specify)*:

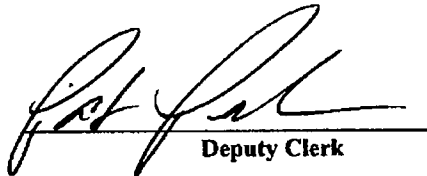
ORDER DIRECTING JOINT ADMINISTRATION OF DEBTORS' CASES AND ESTATES PURSUANT TO
BANKRUPTCY RULE 1015(b)

was entered on *(specify date)*: 12/17/07
2. I hereby certify that I mailed a copy of this notice and a true copy of the order or judgment to the persons and entities on the
attached service list on *(specify date)*: 12/17/07

Dated: 12/17/07

JON D. CERETTO
Clerk of the Bankruptcy Court

By:


Deputy Clerk

- 1 The Debtors include the following entities: Solidus Networks, Inc., d/b/a Pay By Touch, a/k/a Pay By Touch Solutions, a/f/k/a BioPay, Pay By Touch Payment Solutions, LLC, a/f/k/a BPX, a/f/k/a Payment Acquisition Corporation, a/f/k/a InterCept Payment Solutions, LLC, a/f/k/a SPS Payments, LLC, a/f/k/a IPS Solutions, LLC, a/f/k/a iPay, a/f/k/a Pay By Touch Solidus Merchant Services, Pay By Touch Processing, Inc., a/f/k/a CSSI Acquisition Corporation, a/f/k/a Card Systems Solutions, Inc., Pay By Touch Check Cashing, Inc., Check Elect, Inc., Seven Acquisition Sub, LLC, a/f/k/a Seven Street Software, Pay by Touch Checking Resources, Inc., Indivos Corporation, a/f/k/a Smart Touch, Inc., a/f/k/a Veristar Corporation, a/f/k/a Indivos Acquisition Corporation, CardSystems Payment Solutions, LLC, Maverick International Services, Inc., and ATMD Acquisition Corporation, a/f/k/a ATMD Direct, a/f/k/a ATM Online, Inc.

MAILING LIST

Office of the United States Trustee
725 South Figueroa Street, Suite 2600
Los Angeles, CA 90017

Bruce Bennett
James O. Johnston
Lance Miller
HENNIGAN, BENNETT & DORMAN, LLP
865 South Figueroa Street, Suite 2900
Los Angeles, CA 90017

EXHIBIT C

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA

3 --oOo--

4 In Re:) Case No. LA07-20027-TD
5 SOLIDUS NETWORKS, INC.,) Los Angeles, California
6 Debtor.) Thursday, January 17, 2008
7) 2:00 p.m.

8 HRG RE DEBTOR'S MOTION FOR
9 ORDER AUTHORIZING REJECTION
10 OF (A) LEASE OF 3883 TELEGRAPH
11 ROAD IN BLOOMFIELD HILLS,
MICHIGAN; AND (B) SUBLEASE OF
560 MISSION STREET IN SAN
FRANCISCO, CALIFORNIA
[JAMES O. JOHNSTON]

12 HRG RE DEBTOR'S MOTION FOR
13 APPROVAL OF SHORT TERM
14 TENANCY AGREEMENT AND
15 COMPROMISE OF CLAIMS RELATING
16 TO LEASE OF 101 SECOND STREET
17 IN SAN FRANCISCO, CALIFORNIA
PURSUANT TO 11 U.S.C. SECTION
105 AND RULE 9019 OF THE
FEDERAL RULES OF BANKRUPTCY
PROCEDURE [JAMES O. JOHNSTON]

24 Proceedings recorded by electronic sound recording;
25 transcript produced by transcription service.

ii

1 FINAL HRG RE DEBTOR'S MOTION
2 FOR ORDER (I) AUTHORIZING
3 DEBTORS TO OBTAIN POSTPETITION
4 FINANCING PURSUANT TO SECTIONS
5 363 AND 364 OF THE BANKRUPTCY
6 CODE, (II) GRANTING LIENS AND
7 SUPERPRIORITY CLAIMS TO POST-
8 PETITION LENDERS PURSUANT TO
9 SECTION 364 OF BANKRUPTCY
10 CODE, (III) AUTHORIZING USE OF
11 CASH COLLATERAL PURSUANT TO
12 SECTION 363 OF BANKRUPTCY
13 CODE, (IV) PROVIDING ADEQUATE
14 PROTECTION TO PREPETITION
15 LENDERS PURSUANT TO SECTIONS
16 361, 362, 363 AND 364 OF THE
17 BANKRUPTCY CODE
18 [JAMES O. JOHNSTON]
19 SET FR. 12-17-07

11 HRG RE MOTION OF BIOMETRIC
12 PAYMENT SOLUTIONS FOR ORDER
13 (i) DETERMINING THAT DEBTOR
14 LACKS BENEFICIAL INTEREST IN
15 CERTAIN PATENT RIGHTS, (ii)
16 COMPELLING ABANDONMENT
17 THEREOF, (iii) TO THE EXTENT
18 NECESSARY, AMENDING FINAL
19 ORDER AUTHORIZING EMERGENCY
20 FINANCING, (iv) TO THE EXTENT
21 NECESSARY, AMENDING THE
22 INTERIM ORDER AUTHORIZING
23 EMERGENCY FINANCING IN THE
24 CHAPTER 11 PROCEEDING, AND (v)
25 TO THE EXTENT NECESSARY,
OBJECTION TO THE FINAL ORDER
AUTHORIZING EMERGENCY MOTION
IN THE CHAPTER 11 PROCEEDING
[PAUL J. COUCHOT]

22 TRANSCRIPT OF PROCEEDINGS
23 BEFORE THE HONORABLE THOMAS B. DONOVAN
24 UNITED STATES BANKRUPTCY JUDGE
25

iii

1 APPEARANCES:

2 For the Debtor: JAMES JOHNSTON, ESQ.
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7 (213) 694-1200

6 For OZ Master Fund and BEN LOGAN, ESQ.
7 Denarius Touch: KAREN RINEHART, ESQ.
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11 (213) 430-6000

10 For Plainfield: MARK SHINDERMAN, ESQ.
11 Munger, Tolles & Olson, LLP
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14 For Whorl, LLC: LEE BOGDANOFF, ESQ.
15 Klee, Tuchin, Bogdanoff &
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20 (310) 407-4000

18 For the Official Committee GARY KLAUSNER, ESQ.
19 of Unsecured Creditors: NATHAN SCHULTZ, ESQ.
20 Stutman, Triester & Glatt
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22 For S&H Noteholders: THOMAS KRELLER, ESQ.
23 JAMES E. TILL, ESQ.
24 Milbank, Tweed, Hadley &
25 McCoy, LLP
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1 APPEARANCES: (cont'd.)

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Edward R. Roybal Federal
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(213) 894-5011

14 Transcriber:

Briggs Reporting Company, Inc.
6336 Greenwich Drive, Suite B
San Diego, California 92122
(310) 410-4151

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1 fundamental is that in essence one can't ignore the fact
2 that this is short-term financing and that's got to mean
3 what it says or lenders are never going to make gap loans or
4 DIP loans. You got to give them the basic rights that they
5 bargained for.

6 Finally, S and H, this ought to be fairly brief.
7 I often agree with Mr. Kreller, and on this particular
8 occasion I agree with his most fundamental premise. These
9 are non-debtors. We are not asking your Honor to grant
10 liens to put your imprimatur on guarantees from the S and H
11 entities. That's a matter of state law. And, accordingly,
12 we don't purport -- we don't have any ability to prime this
13 lien. We're not asking you to prime these liens. We're
14 also not asking you to establish a review process for the
15 validity of our debt vis-a-vis S and H. That's a matter of
16 state law. They're not before the Court.

17 But it's entirely appropriate for the DIP lenders
18 to insist that the Debtors caused their non-debtor
19 subsidiaries to guarantee this debt. A substantial portion
20 of it will be downstream, but beyond that, these
21 subsidiaries get the benefit of the overhead and the overall
22 operations. And remember also the prepetition pursuant to a
23 consent from the S and H noteholders, these entities
24 guaranteed the full \$159,000,000 of SPA debt. So it's
25 probably a drop in the bucket to add the \$13.5 million of

1 DIP debt on top of that. But the most important issue is I
2 just fundamentally agree with Mr. Kreller that none of that
3 is really before the Court.

4 If that's improper as a matter of state law,
5 that's our problem. But we do insist as a matter of the DIP
6 facility that we at least be able to proceed in a consensual
7 arrangement with the S and H entities to have them provide
8 the same kind of guarantee they did for the SPA debt.
9 That's all I have.

10 If your Honor wrote a note or if you have any
11 questions, I'd be more than happy to deal with anything else
12 that caused particular concern or question.

13 THE COURT: I have a whole bunch of questions but
14 not for you, Mr. Logan.

15 MR. LOGAN: Very good.

16 THE COURT: Mr. Johnston?

17 MR. JOHNSTON: Thank you, your Honor. I'm a
18 pretty linear thinker, and I kind of took notes in the order
19 that people spoke the first time.

20 In a nutshell, I think all the arguments you've
21 heard kind of neatly illustrate the difficulties of the
22 situation, the many different directions in which these
23 estates are being pulled, largely as a result of two
24 absolute forces that are bouncing against each other, the
25 demands of time and the need for money.

1 There was mention made by Mr. Klausner and again
2 by Mr. Bogdanoff about the IP sub, Pay By Touch Checking
3 Resources, does it have other unsecured creditors. Who
4 knows, and there was a reference to the petition filed by
5 that entity. I can say, and I looked at it -- Mr. Bogdanoff
6 shared his copy again with me -- the box that was checked on
7 the petition under penalty of perjury was the one to 20
8 creditors or one to 50. I'm not sure what the option was.
9 It was the lowest possible number of creditors. There is no
10 box for zero.

11 I will reiterate right now that the Debtors do not
12 believe other than the obligations incurred under the DIP
13 facility that there is unsecured debt out there at that sub.

14 And I will agree with Mr. Klausner and I touched
15 on this in our reply, that for adequate protection, the
16 adequate protection should be given consistent with the law.
17 The replacement liens and the 507(b) claims should be given
18 to the extent of diminution in value of the lender's
19 interest in collateral. I think that's a non-controversial
20 legal proposition. The order -- the interim order addressed
21 several -- three different categories of prepetition lender
22 claims and some of the language may have gotten bollixed up.
23 I'm sure we can fix that.

24 I don't have anything else to say with respect to
25 the S and H noteholders. I think Mr. Logan said it

1 correctly, that non-bankruptcy rights are left unimpacted by
2 this order. So that means -- that cuts both ways. The S
3 and H noteholders can rely on those rights, but they also
4 can't seek some additional benefits from this order in the
5 form of marshaling or limiting of guarantees. That's just
6 not an appropriate thing for this order to do one way or
7 another.

8 And Mr. Bogdanoff's comments, again, silence is
9 not a concession that the Debtor violated any terms of the
10 pledge agreement. He indicated that will be a subject of
11 the separate action, and that will be sort out in the wash.
12 I think the issues with respect to the enforceability of the
13 consent and the inter-creditor agreement are interesting
14 ones, and they are ones that ultimately may be the subject
15 of litigation, and it may be that the Debtors get dragged
16 into that litigation. It's not something that we can
17 address today.

18 Those were my remarks, your Honor, unless you had
19 as part of your laundry list of questions something that I
20 can answer.

21 THE COURT: Okay. Thank you, Mr. Johnston.

22 MR. JOHNSTON: Okay.

23 MR. BOGDANOFF: Thank you, your Honor. I asked
24 Mr. Klausner if I could go out of turn, and he indicated
25 that that was fine just because I want to -- again, my

EXHIBIT D

/

SULLIVAN & WORCESTER LLP
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-and-

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Counsel to Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

WALTER BEINECKE, III, EAGLIS
ALTERNATIVE INVESTMENTS I, LLC,
GEOFFREY T. FREEMAN, GRAHAM GUND,
HENRY A. JORDAN, JENNIFER C. McNEIL,
J. STUART MOORE, and CARL NOVOTNY,
TRUSTEE of the S&H NOMINEE TRUST,

Plaintiffs,

-against-

S&H MARKETING, INC. f/k/a S&H
GREENPOINTS, INC., and THE SPERRY AND
HUTCHINSON COMPANY, INC.,

Defendants.

08 Civ. 2483 (GBD)

ELECTRONICALLY FILED

Plaintiffs' Statement Pursuant to Federal Bankruptcy Rule 9027(e)(3)

Walter Beinecke, et al., plaintiffs in the above-referenced action ("Plaintiffs"), by their attorneys, Sullivan & Worcester LLP, submit this statement pursuant to Rule 9027(e)(3) of the Federal Rules of Bankruptcy Procedure.

The underlying case is a non-core proceeding, between non-debtors, that is governed exclusively by state law. Due, *inter alia*, to the exclusively state law nature of the issues raised herein, Plaintiffs expect timely to object to the removal of this case from State Court and to seek by motion a remand back to the State Court. Plaintiffs therefore do not consent to entry of final orders or judgment by a bankruptcy judge.

This Statement is timely as it will be filed within ten days of the filing of the Notice of Removal. It is respectfully submitted in advance of Plaintiffs' anticipated motion for an order remanding this proceeding back to State Court.

Dated: New York, New York
March 21, 2008

s/
Andrew T. Solomon
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EXHIBIT E

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Proposed Special Counsel for Debtors
SOLIDUS NETWORKS, INC., *et al.*

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

SOLIDUS NETWORKS, INC., dba PAY BY
TOUCH (afka PAY BY TOUCH
SOLUTIONS), a Delaware corporation, *et al.*¹,

Debtors.

Chapter 11

Case No. 07-20027-TD
(Jointly Administered)

**DECLARATION OF KENNETH L. GUERNSEY
IN SUPPORT OF DEBTORS' APPLICATION
FOR ORDER AUTHORIZING RETENTION OF
COOLEY GODWARD KRONISH LLP, AS
SPECIAL COUNSEL FOR THE DEBTORS AND
DEBTORS IN POSSESSION**

I, Kenneth L. Guernsey, hereby declare:

1. I am a partner of the law firm of Cooley Godward Kronish LLP ("Cooley"), which maintains an office for the practice of law at 101 California Street, 5th Floor, San Francisco, CA 94111-5800, among others, and I am an attorney in good standing to practice in the State of California. I submit this declaration in support of the Debtors' Application For Order

¹ The Debtors include the following entities: Solidus Networks, Inc., dba Pay By Touch, aka Pay By Touch Solutions, afka BioPay, Pay By Touch Payment Solutions, LLC, afka EPX, afka Payment Acquisition Corporation, afka InterCept Payment Solutions, LLC, afka SPS Payments, LLC, afka IPS Solutions, LLC, afka iPay, afka Pay By Touch Solidus Merchant Services, Pay By Touch Processing, Inc., afka CSSI Acquisition Corporation, afka Card Systems Solutions, Inc., Pay By Touch Check Cashing, Inc., Check Elect, Inc., Seven Acquisition Sub, LLC, afka Seven Street Software, Pay by Touch Checking Resources, Inc., Indivos Corporation, afka Smart Touch, Inc., afka Veristar Corporation, afka Indivos Acquisition Corporation, CardSystems Payment Solutions, LLC, Maverick International Services, Inc., and ATMD Acquisition Corporation, afka ATMD Direct, afka ATM Online, Inc.

1 Authorizing Retention of Cooley Godward Kronish LLP, as Special Counsel for the Debtors and
 2 Debtors in Possession ("Application") with respect to the Debtors' proposed employment of
 3 Applicant as special counsel to the Debtors in these cases. Except as otherwise indicated, I have
 4 personal knowledge of the matters set forth herein and, if called as a witness, would testify
 5 competently with respect thereto.

6 COOLEY'S QUALIFICATIONS

7 2. I am the partner at Cooley who is principally responsible for this engagement.
 8 Cooley has represented Solidus since its formation in approximately April 2002. Prior to
 9 commencement of these Chapter 11 cases, the Debtors engaged Cooley to, among other things,
 10 advise and assist the Debtors by providing substantive legal advice involving corporate,
 11 securities, financing, intellectual property, employment, mergers and acquisitions, taxation, real
 12 estate and related legal matters. Cooley is extremely familiar with the Debtors and their
 13 businesses and legal and financial affairs and, accordingly, I believe Cooley is well-suited to
 14 represent the Debtors as special counsel on the matters described herein.

15 3. Cooley is a large, full-service law firm comprised of approximately 639 attorneys
 16 resident in nine different offices in six different states, with special expertise in a wide variety of
 17 practice areas and in the types of matters for which the Debtors seek to employ Cooley as special
 18 counsel. Cooley has principal offices in San Francisco, Palo Alto, and San Diego, California;
 19 Reston, Virginia; Broomfield, Colorado; Washington, D.C.; Boston, Massachusetts; and New
 20 York, New York. Cooley has nationally recognized expertise in the areas in which it is to be
 21 employed and, as such, is competent and qualified to serve as special counsel to the Debtors with
 22 respect to corporate, securities, financing, intellectual property, employment, mergers and
 23 acquisitions, taxation, real estate and related legal matters. A copy of Cooley's firm resume,
 24 together with biographical information regarding and the respective 2007 billing rates of the
 25 Cooley professionals expected to render a significant amount of services in these cases, is
 26 attached collectively hereto as **Exhibit A**.

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CLAIMS OF COOLEY

4. As a result of its representation of the Debtors prior to these bankruptcies, Cooley has certain claims against Debtor Solidus for unpaid legal services. I am informed and believe Cooley's total unsecured claim for the pre-involuntary period through October 31, 2007 (the "Pre-Involuntary Claim") is in the amount of \$651,301.78. Cooley also has a claim for unpaid legal services rendered between the involuntary filing and the Consent Date (the "Gap Claim"). I am informed and believe that Cooley's Gap Claim totals \$210,288.99. Cooley intends to file proofs of claims with regard to the Pre-Involuntary Claim and the Gap Claim. While I understand that the Debtors reserve all of their rights regarding these claims, I have no reason to believe there will be any significant issues or disputes relating to them, and in any event, Cooley will not be involved in representing the Debtors with respect to such claims issues.

COMPENSATION STATEMENT PURSUANT TO 11 U.S.C. SECTION 329(a)

5. During the pre-bankruptcy period from October 31, 2006 to December 14, 2007, which includes the one year period prior to the involuntary filing plus the "gap" period up to the Consent Date, Cooley received certain payments for professional fees and expenses rendered to Debtor Solidus, in the aggregate amount of \$1,157,756.29. I am informed and believe that the source of these payments were the assets of Solidus. The specific payments are set forth in the table below. However, hardly any of this amount was in compensation for services rendered directly in contemplation of, or in connection with, this bankruptcy proceeding. Except for these payments, Cooley has not received any other payment from the Debtors since October 31, 2006, and Cooley has not received any lien or other interest in the property of the Debtors or a third party to secure payment of its fees.

<u>Date of Payment</u>	<u>Amount of Payment</u>
12/04/2006	\$ 184,234.32
12/05/2006	\$ 137,739.33
12/08/2006	\$ 300,503.34
12/14/2006	\$ 226,273.35
03/08/2007	\$ 184,005.95
12/03/2007	\$ 100,000.00
12/13/2007	\$ 25,000.00
Total:	\$ 1,157,756.29

COOLEY'S PROPOSED ENGAGEMENT

6. I believe the Debtors require the services of special counsel for corporate, securities, financings, intellectual property, employment, mergers and acquisitions, taxation, real estate and related legal matters to execute faithfully their duties as debtors in possession. Effective as of the Consent Date, subject to this Court's approval of the Application, the Debtors have requested that Cooley render various services to the Debtors including, without being exhaustive, the following:

- (a) advise the Debtors with respect to general corporate and securities law; financing issues; intellectual property law; taxation law, real estate law and other legal matters related to the foregoing;
- (b) assist the Debtors and their other professionals with respect to the negotiation, documentation, and closing of asset sales or other transactions, including the "milestone" transactions established in the Debtors' debtor in possession financing facility, as is necessary or appropriate;
- (c) advise the Debtors and assist with the Debtors' filing of all necessary reports required under federal securities laws and regulations and corporate laws and regulations of Delaware and other applicable jurisdictions;
- (d) advise and assist the Debtors with respect to employment law matters and issues relating to their relationship with their employees;
- (e) appear before this Court and any appellate courts, and in discussions with the U.S. Trustee, to protect the interests of the Debtors' estates on matters relating to Cooley's special representation as described herein; and
- (f) perform certain tasks required of professionals under the Bankruptcy Code and Bankruptcy Rules, applicable Local Rules and U.S. Trustee Guidelines, including in connection with the employment application and the fee application processes.

7. As compensation, the Debtors have agreed to pay Cooley a reasonable fee for services rendered and to be rendered, calculated with reference to Cooley's hourly rates, and to reimburse Cooley for all reasonable costs and expenses charged to the Debtors' account. Cooley's 2007 rates ranged from \$250 to \$875 per hour for attorneys and from \$90 to \$300 per hour for paralegals, professionals, librarians, clerks, and other professionals. The specific 2007 rates for those members and employees of Cooley who currently are expected to perform substantial work for the Debtors are included with the biographical summaries attached hereto as **Exhibit A.**²

² This list, of course, is not exclusive. Cooley may staff this engagement with additional or different professionals and paraprofessionals as necessary or appropriate under the changing circumstances of the cases.

1 Cooley's rates are adjusted periodically, typically on January 1 of each year. While Cooley's
 2 2008 rates have yet to be determined, Cooley has informed the Debtors that it expects to adjust
 3 the above-noted rates effective as of January 1, 2008.

4 8. Cooley has informed the Debtors that should it become appropriate and cost-
 5 effective to do so, Cooley also may utilize "temporary" attorneys, paralegals, and clerks who are
 6 provided to Cooley on a contract basis from outside services and for whom Cooley will charge a
 7 reasonable hourly rate intended to compensate Cooley for the costs and overhead associated with
 8 such personnel.

9 9. Finally, Cooley will invoice the Debtors for the reasonable costs and expenses that
 10 it incurs in connection with this engagement. Such costs and expenses typically include, among
 11 others, charges for messenger services, air couriers, photocopying, postage, long distance
 12 telephone, computerized legal research facilities (including the time billed for such legal
 13 research), investigative searches, computerized document management services (including
 14 scanning and coding), and other charges customarily invoiced by law firms in addition to fees for
 15 legal services, such as court fees and travel expenses.

16 10. Cooley recognizes that all compensation for services rendered from and after the
 17 Consent Date is subject to approval of the Bankruptcy Code and otherwise governed by the
 18 provisions of the Bankruptcy Code.

19 **DISCLOSURES OF MATERIAL INTERESTS, CLAIMS AND CONNECTIONS**
 20 **PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 2014(a)**

21 11. As described above, Cooley has represented Solidus since its formation in
 22 approximately April 2002, and represented Solidus prior to these bankruptcies in the legal areas
 23 on which it now seeks to be employed from and after the Consent Date.

24 12. On January 3, 2008, Cooley received certain correspondence from the attorney for
 25 an investor in Debtor Solidus, making certain allegations against Cooley and Solidus in
 26 connection with the investor's \$250,000 investment in a 2007 private placement of Debtor
 27 Solidus's Series C Preferred stock. Cooley believes the allegations against it are entirely without
 28 merit, and in any event, currently this is an informal dispute unrelated to the matters on which

1 Cooley would be employed herein. If Cooley is employed herein and subsequently a formal
 2 claim is made or litigation is initiated against Cooley, and/or if any potential conflict of interest
 3 arises between the Debtors, and/or its current or former officers and directors, and Cooley with
 4 regard to this matter, Cooley will submit a supplemental declaration so advising the Court and the
 5 U.S. Trustee, to allow the opportunity for further inquiries and/or objections relating to Cooley's
 6 future continued employment under such circumstances.

7 **13.** In the course of Cooley's pre-bankruptcy corporate representation of the Debtors,
 8 Cooley has issued opinions to certain target companies and selling stockholders in connection
 9 with certain mergers and acquisitions, to various secured and unsecured lenders in connection
 10 with certain debt financings and to many of Solidus' stockholders in connection with certain
 11 equity financings. Some or all of these parties are interested parties herein and/or may have
 12 claims against and/or interests in one or more of the Debtors. For example, Cooley has issued
 13 such opinions to certain of the Interested Parties listed on Exhibit B to the Guernsey Declaration,
 14 including without limitation the following pre-petition secured lenders of the Debtors: Denarius
 15 Touch, L.L.C.; OZ Master Fund, Ltd.; Highbridge International LLC; Plainfield Direct LLC;
 16 Plainfield Special Situations Master Fund Limited; and Plainfield West Investments LLP.

17 **14.** To check and clear potential conflicts of interest in this case, and based upon
 18 information known on or near the date of the Application, Cooley researched its client database to
 19 determine whether it had any relationships with any of the following entities (collectively, the
 20 "Interested Parties"):

21 a. The Debtors and their non-debtor affiliates and certain former affiliates
 22 (including all known former corporate and trade names of the Debtors and their affiliates);

23 b. The Debtors' and their non-debtor affiliates' respective current officers and
 24 directors;

25 c. The Debtors' secured lenders and other known holders of secured and
 26 unsecured debt;

27 d. Shareholders of any of the Debtors holding, directly or indirectly, 10% or
 28 more of the different classes of outstanding shares of the Debtors;

1 e. The creditors holding the one hundred largest unsecured claims against the
2 Debtors (determined on a consolidated basis);

3 f. Certain professionals and other interested parties that the Debtors and/or
4 Cooley have identified as possibly being involved in these chapter 11 cases; and

5 g. The alleged creditors who filed the involuntary petition with respect to
6 Solidus.

7 The identities of the Interested Parties were obtained from the Debtors, from a review of certain
8 documents governing the Debtors' indebtedness, and pleadings already filed in the bankruptcy
9 case with respect to Solidus, and are set forth on **Exhibit B** hereto.

10 **15.** To the best of my knowledge after reasonable inquiry, except as disclosed and
11 summarized below, Cooley does not have any connections with an Interested Party, and Cooley
12 has not represented and does not and will not represent any Interested Party with respect to
13 matters related to the Debtors' chapter 11 cases.

14 **16.** Cooley currently represents the following Interested Parties (or presumed affiliated
15 entities) in matters unrelated to the Debtors or these cases: AT&T Venture Funds (presumably
16 affiliated with Interested Party AT&T Mobility); American Express Bank, American Express
17 Company, and American Express Bank International Employees (presumably all affiliated with
18 Interested Party American Express Travel Related Services Co.); CA, Inc.; KPMP LLP; and
19 Salesforce.com.

20 **17.** To the best of my knowledge after reasonable inquiry, all of the above-noted
21 current representations are unrelated to Cooley's representation of the Debtors in connection with
22 these bankruptcy cases and that, to the extent required by applicable law and rules of professional
23 responsibility, the Debtors have consented to Cooley's ongoing representation of the entities
24 disclosed above in any and all such unrelated matters.

25 **18.** Cooley briefly and formerly represented two current or former officers or directors
26 of the Debtors, John Rogers and Brian Miller, in addition to Debtor Solidus, in certain litigation
27 involving Excel Innovation. Cooley also briefly and formerly represented John Rogers
28 individually, in addition to Debtor Solidus, in connection with a certain secured financing of

Debtor Solidus of which Mr. Rogers is guarantor.

19. Cooley was appointed as an Independent Consultant (a monitor) by the SEC and Interested Party The Bank of New York ("BONY") to supervise BONY's obligations in a settlement of a cease-and-desist proceeding initiated by the SEC. Cooley has not had an attorney-client relationship with BONY as a result of its role as a monitor. Cooley's role as Independent Consultant concluded in late 2007.

20. Cooley formerly represented, within the past five years, the following Interested Parties (or presumed affiliates): Maxim Systems, Inc. (affiliated with Interested Party Accenture LLP); AT&T Corporation (presumably affiliated with Interested Party AT&T Mobility); CardSystems Payment Solutions, LLC; MCI, Inc.; Howard, Rice, Nemerovsky, Canady Falk & Rabkin; J.P. Morgan Securities, Inc. (presumably affiliated with Interested Party J.P. Morgan Ventures Corporation); Oracle Corporation (also the spouse of a Cooley partner is Vice President and Chief Counsel of Oracle's Financing Division); Oracle USA Inc.; Taos; U.S. Bank, N.A.; Transaction Network Services, Inc.; Vignette Corporation; XperEx; and Xoriant.

21. Cooley has vendor relationships with the following Interested Parties: Arrow Electronics; Citrix Systems, Inc.; Dell Computer Corporation; EPV Systems, Inc.; Microsoft (presumably affiliated with Interested Party Microsoft Licensing GP); Staples; and US Bank.

22. In order to be employed only as special counsel, I understand that so long as Cooley satisfies the requirements of Section 327(e) of the Bankruptcy Code, Cooley is not required to satisfy all aspects of the "disinterested person" definition set forth in Section 101(14). While Cooley satisfies most aspects of this definition, as disclosed in paragraph 4 above, Cooley is a creditor of the Debtors by virtue of its Pre-Involuntary Claim and its Gap Claim. However, Cooley will not be representing the Debtors with regard to any such claims issues or litigation

23. Also, while Cooley is not an equity security holder of the Debtors, a fund of GC&H Investments, LLC, an investment fund in which many Cooley partners and employees participate, holds a *de minimis* (substantially less than one percent) passive equity investment in Debtor Solidus. The GC&H fund holds 83,333 shares of Series B preferred stock in Solidus, which represents .016% (less than two-tenths of one percent) of the Solidus shares outstanding on

1 a fully diluted basis.

2 24. As to the other aspects of the “disinterested person” definition, to the best of my
3 knowledge after reasonable inquiry, Cooley and all of the attorneys and professionals comprising
4 or employed by Cooley

5 (a) are not and have not been an insider of the Debtor;

6 (b) are not and have not been a director, officer or employee of the Debtors;
7 and

8 (c) except as otherwise disclosed herein, have no interest materially adverse to
9 the interest of the estates or any class of creditors or equity security holders, by reason of any
10 direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other
11 reason.

12 25. Finally, to the best of my knowledge after reasonable inquiry, no attorney at
13 Cooley is related to any United States District Judge or United States Bankruptcy Judge for the
14 Central District of California or to the United States Trustee for such district or to any known
15 person employed in office thereof.

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18 I declare under penalty of perjury under the laws of the United States of America that the
19 foregoing is true and correct, and that this Declaration was executed in San Francisco, California on
20 January 7, 2008.

21

/s/ Kenneth L. Guernsey

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Kenneth L. Guernsey

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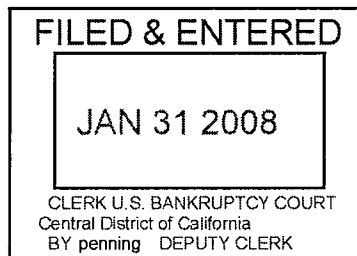
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EXHIBIT F

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Proposed Special Counsel for Debtors
 SOLIDUS NETWORKS, INC., *et al.*

UNITED STATES BANKRUPTCY COURT
 CENTRAL DISTRICT OF CALIFORNIA
 LOS ANGELES DIVISION

In re
 SOLIDUS NETWORKS, INC., dba PAY BY
 TOUCH (afka PAY BY TOUCH
 SOLUTIONS), a Delaware corporation, *et al.*¹,
 Debtors.

Chapter 11

Case No. 07-20027-TD
 (Jointly Administered)

**ORDER AUTHORIZING RETENTION OF
 COOLEY GODWARD KRONISH LLP, AS
 SPECIAL COUNSEL FOR THE DEBTORS AND
 DEBTORS-IN-POSSESSION**

This matter coming before the Court on the “Notice of Application and Application for Order Authorizing Retention of Cooley Godward Kronish LLP as Special Counsel for the Debtors and Debtors in Possession” (the “Application”), filed by Solidus Networks, Inc., dba Pay By Touch, afka Pay By Touch Solutions, *et al.*, the debtors and debtors-in-possession herein (the “Debtors”); the Court having reviewed the Application, the record in these cases, the Lumsden Declaration, and the Guernsey Declaration (as those terms are defined in the Application); the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and

¹ The Debtors include the following entities: Solidus Networks, Inc., dba Pay By Touch, aka Pay By Touch Solutions, afka BioPay, Pay By Touch Payment Solutions, LLC, afka EPX, afka Payment Acquisition Corporation, afka InterCept Payment Solutions, LLC, afka SPS Payments, LLC, afka IPS Solutions, LLC, afka iPay, afka Pay By Touch Solidus Merchant Services, Pay By Touch Processing, Inc., afka CSSI Acquisition Corporation, afka Card Systems Solutions, Inc., Pay By Touch Check Cashing, Inc., Check Elect, Inc., Seven Acquisition Sub, LLC, afka Seven Street Software, Pay by Touch Checking Resources, Inc., Indivos Corporation, afka Smart Touch, Inc., afka Veristar Corporation, afka Indivos Acquisition Corporation, CardSystems Payment Solutions, LLC, Maverick International Services, Inc., and ATMD Acquisition Corporation, afka ATMD Direct, afka ATM Online, Inc.

1 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and (c) notice of the
2 Application was reasonable and appropriate under the circumstances; and the Court having
3 determined that the legal and factual bases set forth in the Application establish just cause for the
4 relief granted herein;

5 **IT IS HEREBY ORDERED THAT:**

6 1. The Application is GRANTED.

7 2. The Debtors are authorized, pursuant to section 327(e) of the Bankruptcy Code, to
8 employ the firm of Cooley Godward Kronish LLP ("Cooley") as their special counsel, effective
9 from and after December 14, 2007, on substantially the terms and conditions set forth in the
10 Application, with compensation to be at the expense of the estates in such amount as the Court
11 may hereafter allow.

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26 DATED: January 31, 2008


United States Bankruptcy Judge

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